

THE HON'BLE SRI JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 16768 of 2005

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Date: 29.07.2005

Between:

N.F.C. Employees Association,

Rep. by its General Secretary,

R. Chandra Sekhar, S/o.R.Narasimha,

N.F.C., E.C.I.L., Hyderabad – 500 062.

..... PETITIONER

AND

1. The Chief Executive Officer,
Nuclear Fuel Complex,
Department of Atomic Energy,
Government of India,
E.C.I.L. Post, Hyderabad and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE S.ANANDA REDDY

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ORDER:

This writ petition is filed by the petitioner- Association seeking Writ of

Mandamus declaring the action of the respondents in effecting recovery of annual subscriptions from the pay rolls of 1295 workmen in favour of the fourth respondent – N.F.C Mazdoor Sangh (for short ‘the Mazdoor Sangh’), even though the said workmen have submitted their withdrawals in favour of the petitioner Association, as illegal, arbitrary and violative of principles of natural justice as well as contrary to C.C.S. (Recognition of Services) Rules, 1993 (for short ‘the Rules’).

2. The petitioner is one of the Unions of the Employees of Nuclear Fuel Complex- first respondent, which is the Government of India organization. It is stated that about 1295 employees have withdrawn their membership from the fourth respondent – Mazdoor Sangh and submitted letters requesting not to deduct contribution of Rs.24/- towards their membership from their salaries. In spite of it, without passing any orders, respondents 1 to 3 are going to effect deduction of the annual subscription in favour of the fourth respondent – Mazdoor Sangh from out of the salaries of the said workmen payable for the month of July. Hence, the present writ petition.

3. The learned counsel for the petitioner contends that as per the Rules, every employee is expected to give his option in the month of April, which will be valid for a period of one year and basing on the said option given in favour of the Union, the annual subscription would be deducted and credited to the said Union. But, however, by virtue of the withdrawals made by 1295 workmen of the organization from the fourth respondent – Mazdoor Sangh, it ceased to be a majority union as it will not have 35% of the total number of employees and therefore, it will not be entitled to represent the employees for any settlement with the employer. He further contends that even though options have been submitted withdrawing the option in favour of the fourth respondent – Mazdoor Sangh, still the respondents are going to effect deductions and credit the same to the fourth respondent – Mazdoor Sangh illegally. The learned counsel also contended that there is a procedure prescribed for check-off-system and also with reference to the strength of the association and without following the said procedure contemplated under the Rules as to the verification of the membership to the service association to check-off-system, the official respondents are favouring the fourth respondent. Therefore, sought for appropriate orders.

4. At the time of hearing it is represented that out of 1295 employees who submitted their options withdrawing their option in favour of the fourth respondent 474 have become the members of the petitioner Association.

5. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent.

6 . On consideration of the above facts, this Court is not inclined to accept the contention of the petitioner Association, which is actually a rival Union to the fourth respondent, which was recognized as majority Union. If 1295 employees have withdrawn their consent to continue as members of the fourth respondent Union and if no orders are passed by the employer and if the employer is proposing to deduct annual subscription from their salaries and credit the same to the fourth respondent - Mazdoor Sangh, it is for the members, who have withdrawn their membership from the fourth respondent – Mazdoor Sangh to be aggrieved and the rival Association cannot come up with the present writ petition. The employees, who were aggrieved against non passing of any orders on withdrawing their membership from the fourth respondent, which is a recognized union, are expected to seek appropriate remedy. If no orders are passed by the employer and the employer proposes to deduct from their salaries, the annual subscription and credit the same to the fourth respondent – Mazdoor Sangh, and as the effected employees have not come forward before this Court, it would be difficult to accept the claim of the petitioner, which is a rival Union to that of the fourth respondent. Hence, this Court declines to accept the claim of the petitioner.

7 . Therefore, the writ petition is devoid of merits and the same is accordingly dismissed at the admission stage.

S. Ananda Reddy, J

Date: 29.07.2005

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